

Appl. No. 10/664,266
Resp. Dated Jul. 18, 2005
Reply to Final OA of May 18, 2005

REMARKS/ARGUMENT

I. Status of the Claims

Claims 1-6 and 32-45 are pending.

Claims 1-6 and 32-45 are rejected.

II. Objection to Claims

Claims 2-6 are objected to for informalities. Claims 2-6 have been amended to correct the informalities. No new matter has been added.

III. Claim Rejections under 35 U.S.C. 112

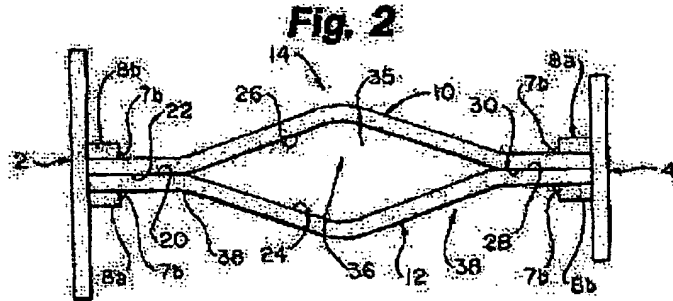
Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter that the inventors consider to be the invention. The term "second arm" and "attachment" are clarified to better understand the claim. The rejection of claims 1-6 is moot in light of the amendment of claim 1. Applicants respectfully request reconsideration and removal of the rejection.

IV. Rejections Under 35 U.S.C. § 102

Claims 1, 4-6, 39 and 42-44 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Miller (US 6,068,329). Miller teaches the use of two arms 10 and 12 that deform (crush) upon impact that are non-linear in

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shape. The arms are secured to mounting plates 2 and 4.
 (see FIG. 2 below)



Miller however does not teach the use of a mid-filler section as required by the Applicants' claims. The Miller arms 10, 12 are the means to absorb force, whereas the Applicants' claimed arms only promote the crushing of the mid-filler section. The Miller patent is silent regarding providing an opening for the positioning of a shock absorbing material.

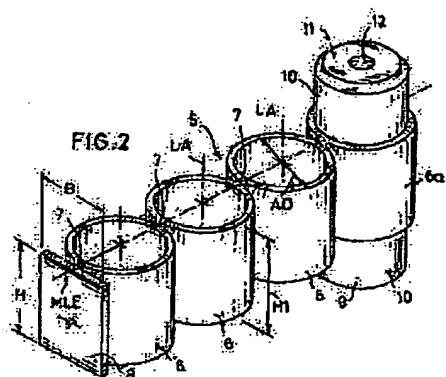
The Miller arms are not designed to provide sufficient space for a shock absorbing material and if shock absorbing material were positioned between the arms it would be unsatisfactory because the arms of Miller expand because of their design when they crush, whereas the Applicants' mid-filler section flattens when crushing by the addition of the mid-filler section thus maximizing the absorption of

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force by both the crushing of the mid-filler section and the shock absorbing material.

The Applicants' claims as amended are not taught by Miller, which fails to even teach the use of a mid-filler section. The failure to teach each and every element of the Applicants' claims fails to provide a prima facie case of anticipation. Reconsideration and removal of the rejection of claims 1, 2, 4-6, 32, 33 and 35-38 are respectfully requested.

Claims 1, 2, 4-6, 32, 33 and 35-38 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kroning et al. (US 6,299,227). Kroning teaches the use of a series of oval hollow sections 6 welded together 7 for use of absorbing force during impact when attached 10 to an automobile bumper. (see FIG. 2 below)



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While Kroning does teach an element similar to the Applicants' mid-filler section it does not teach the required use of arms, as claimed by the Applicants, attached to the mid-filler section to promote flattening during crushing. The failure to provide arms in Kroning produces a different invention and not the invention claimed by the Applicants.

The Kroning application teaches the use of shock absorbing resin 24 positioned within the hollows of the sections 6, but it teaches away from the Applicants' claim. Kroning teaches the bumper structure at column 4, lines 36-63:

FIG. 1 shows how the coupling member 9 engages between upper and lower legs 13, 14 of the bumper support 3 having a hat-shaped cross-section. The coupling member 9 is coupled with its parallel contact surfaces 15, 16 to the legs 13, 14 of bumper element 3. A threaded bolt 17 penetrates respectively the contact surface 15 or 16 and engages the threaded bore 12 of the coupling member 9.

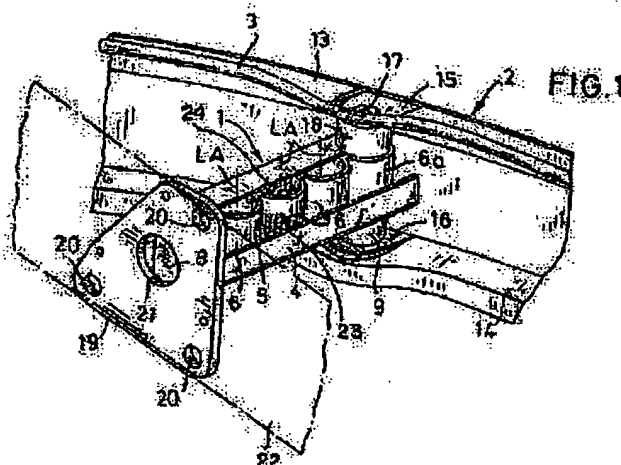
In the mounted position, the coupling member 9 penetrates the inner profiled member 5 as well as the corresponding penetrations 18 provided in the outer tube 4. By this measure, the inner profiled member 5 is position-secured in the outer tube 4.

At its end opposite the bumper elements 2 the impact damping member 1 has a flange 19 which is connected to the outer tube 4. The flange 19 is located in the same plane as the support plate 8 of the inner profiled member 5. The surface area of the support plate 8 contacts the flange 19. The flange 19 is provided with several bores 20 for securing it by screwing to the frame of the motor vehicle. These bores 20 are

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positioned within the corner areas of the substantially trapezoidal flange 19. Moreover, the flange 19 has an opening 21 at its central area.

While the inner profiled members 5 as well as the outer tube 4 have a relatively minimal wall thickness, the flange plate 19 has a greater wall thickness. The wall thickness of the inner profiled member 5 as well as of the outer tube 4 are constant in the shown embodiment. (emphasis added)



As clearly taught by Kroning the mid-filler sections 6 are joined into "inner profiled members 5" as shown in FIG. 1, which are then encased within a "outer tube 4" as shown in FIG. 2 above. The outer tube is an integral part of the Kroning device for promotion of crushing, but it is a different device having different performance than that claimed by the Applicants.

The Applicants claim 1 requires "a mid-filler attachment without a bottom plate or lid" having two arms

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attached to promote flattening during crushing. The Kroning patent therefore actually teaches away from the Applicants invention by requiring a tube 4 (that acts like a bottom plate and lid) to encase their mid filler section thus reducing the shock absorption properties of their mid filler section. The Kroning patent's failure to teach each and every element of the Applicants claims fails to provide a prima facie case of anticipation of claims 1, 2, 4-6, 32, 33 and 35-38. Applicants respectfully request reconsideration and removal of the anticipation of claims 1, 2, 4-6, 32, 33 and 35-38.

V. Rejections Under 35 U.S.C. § 103(a)

Claims 3 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kroning in view of Straza et al (US 6,068,329). Kroning fails to teach each and every element of independent claims 1 and 32 as it fails to teach the arms and their manner attached to the mid-filler section as claimed by the Applicants as discussed above. Straza et al teaches "a metal honeycomb material" that is positioned within a bumper and not within a mid-filler section as claimed by the Applicants. The teaching of Straza does not correct the deficiencies of teaching present in the Kroning patent.

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The combination of the teachings of Kroning and Straza fails to form a prima facie case of obvious for claims 3 and 34 because the combination does not teach each and every element required by the claims. Applicants respectfully request the reconsideration and removal of the obviousness rejection of claims 3 and 34.

Claim 40 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Straza et al (US 6,068,329). The Miller patent fails to teach each and every element of claim 39 as discussed above because it does not teach the use of a mid-filler attachment. The Straza patent does not teach the inclusion of shock absorbing material within a hollow section of a mid-filler section. The combination of the teachings of Miller and Straza fails to form a prima facie case of obvious for claim 40 because the combination does not teach each and every element required by the claims. Applicants respectfully request the reconsideration and removal of the obviousness rejection of claim 40.

Claims 41 and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Straza et al (US 6,068,329). The Miller patent fails to teach each and every element of independent claim 39 as discussed above or independent claim 45 because it does not teach the

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use of a mid-filler attachment, only arms. The Straza patent does not teach the inclusion of shock absorbing material within a hollow section of a mid-filler section or arms, only as backing for a bumper or bumperett.

The combination of the teachings of Miller and Straza fails to form a prima facie case of obvious for claims 41 and 45 because the combination does not teach each and every element required by the claims. Applicants respectfully request the reconsideration and removal of the obviousness rejection of claims 41 and 45.

VI. After Final Claim Entry

The Applicants respectfully request entry of the after final claim amendments. The amendments to the claims do not require a further search and should place the application in condition for allowance.

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VII. Conclusion

Based on the foregoing, it is respectfully requested that all rejections be withdrawn and the application be passed to issue.

Respectfully submitted,

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Dated: 18 JUL 05

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Certificate Under 37 C.F.R. §1.8

The undersigned hereby certifies that this paper along with any paper or document referred to therein as being attached or enclosed, is being mailed with proper postage or faxed to (703) 872-9306 and directed to the Commissioner for Patents, Mail Stop AE, P.O. Box 1450, Alexandria, VA 22313-1450- This 18th day of JULY 2005.

Jeffrey D. Washville